85-993

No. 85-

IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

PAULA A. HOBBIE,

Appellant,

v.

UNEMPLOYMENT APPEALS COMMISSION AND LAWTON AND COMPANY,

Appellees.

On Appeal From The District Court Of Appeal Of The State Of Florida, Fifth District

JURISDICTIONAL STATEMENT

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QUESTIONS PRESENTED

1. Whether an employee's refusal for religious reasons to work on her Sabbath constitutes "misconduct connected with work" so as to warrant denial of unemployment compensation benefits to that person when she is discharged.

2. Whether Section 443.101, Florida Statutes, violates the Free Exercise Clause of the First Amendment when applied in such a manner as to deny unemployment compensation benefits to a person who refuses to work scheduled hours because of sincerely held religious convictions which were adopted after employment began.

LIST OF ALL PARTIES

All of the parties appearing in the Florida appellate court are listed in the caption of this Jurisdictional Statement.

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TABLE OF AUTHORITIES

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No. 85-___

PAULA A. HOBBIE,

Appellant,

v.

UNEMPLOYMENT APPEALS COMMISSION, et al,

Appellees.

On Appeal From The District Court
Of Appeal Of The State Of Florida, Fifth District

JURISDICTIONAL STATEMENT

OPINIONS BELOW

Hobbie was fired when she refused to work on her Sabbath. She applied for unemployment compensation benefits but was denied. On appeal her claim was heard by an Appeals Referee who issued a Decision dated July 20, 1984, affirming the initial denial of such benefits. (A copy of that Decision is attached hereto as "Appendix A.") The referee's determination was, in turn, affirmed by the Florida Unemployment Appeals Commission on September 11, 1984, with a single sentence: "Upon review pursant to

Section 443.151(4)(c), Florida Statutes, it is found that the decision of the appeals referee is in accord with the essential requirements of law and is, therefore, affirmed." (A copy of that Order is attached hereto as "Appendix B.") Hobbie appealed the Commission's Order to the District Court of Appeal of the State of Florida, Fifth District. On September 10, 1985, that court issued its decision: "*Per Curiam*. Affirmed." (A copy of that Decision is attached hereto as "Appendix C".)

On October 2, 1984, a "Notice of Appeal" was filed with the District Court of Appeal (A copy of that Notice is attached hereto as "Appendix D.")

JURISDICTION

This is an appeal from a final judgment of the District Court of Appeal of the State of Florida, Fifth District.[1]. The judgment confirmed an interpretation of Florida law so as to deny Hobbie rights secured by the Free Exercise Clause of the First Amendment. The Unemployment Appeals Commission determined that the refusal to work on her Sabbath constituted "misconduct connected with work" under Section 443.101(1)(a), Florida Statutes. As a consequence, she was denied unemployment compensation benefits. Hobbie has challenged this interpretation of the Florida statute and argued its repugnance to both the Federal Constitution and the decisions of the United States Supreme Court.

This Court has jurisdiction on appeal by virtue of 28 U.S.C.A. § 1257(2). This appeal has been docketed in this Court within 90 days of the final judgment.

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[1] Under Florida law a *per curium* decision cannot be appealed to the Florida Supreme Court. See Rule 9.030(a)(2)(A)(ii), Florida Rules of Appellate Procedure. *In Re Florida Rules of Appellate Procedure*, 391 So.2d 203 (Fla. 1980).

CONSTITUTIONAL AND STATUTORY PROVISIONS

The constitutional provision involved is found within the Religion Clauses of the First Amendment to the United States Constitution:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof . . .

The pertinent portion of Florida statutes are as follows:

> Section 443.101, Florida Statutes: An individual shall be disqualified for benefits: (1)(a) For the week in which he has voluntarily left his employment without good cause attributable to his employer or in which he has been *discharged* by his employing unit *for misconduct connected with his work*, if so found by the division. [Emphasis added.]
>
> Section 443.036(24) Florida Statutes: "Misconduct" includes, but is not limited to, the following which shall not be construed in *pari materia* with each other:
>
> (a) Conduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of his employee; or
>
> (b) Carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent or evil design, or to allow an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer.

STATEMENT OF THE CASE

Hobbie had been employed by Lawton and Co., a Florida jeweler, for some two and one-half years until her discharge on June 1, 1984. Her initial employment was as

a manager trainee but shortly before her termination, Hobbie had been promoted to an assistant manager position.

When Hobbie began her employment she was not a member of the Seventh-day Adventist Church. However, in May of 1984, Hobbie became a baptized member of that church. The teachings of this religious organization forbids its members from secular activities during the period between sundown Friday and sundown Saturday. In April of that year she advised her immediate superior, Parks L. Heaton, of her new Sabbath beliefs, indicating that she could no longer work during that period of time.

Heaton worked out an arrangement with Hobbie where she agreed to cover for him on Sundays and he agreed to work for her whenever she was scheduled to work on Friday nights after sunset or before sunset on Saturdays. This arrangement, made without the prior approval of Lawton and Company's upper management, proved successful for approximately two months. Then upper management learned of this arrangement and ordered its immediate discontinuance. At that time, Hobbie was given an ultimatum of either working on her Sabbaths as scheduled, or quitting. The employer made no attempt to accommodate Hobbie's beliefs, despite her immediate manager's statement that their arrangement was working without any problem. She refused to quit or to work on her Sabbath.

On June 1, 1984, Lawton and Company discharged Hobbie for misconduct connected with work. On June 4, she filed a claim with the Florida Department of Labor and Employment Security for unemployment compensation benefits. Lawton and Company contested the payment of such benefits to Hobbie because she had been:

"Discharged for *misconduct* connected with work on June 1, 1984." Specifically, the employer stated that she had been discharged because: "The claimant was not able to work hours needed as she had done for the past 2 years. Due to claimant's recent change in beliefs the claimant made herself unavailable for work on Friday and Saturday. The claimant was given the chance to work her normal hours as she had done for the previous 2-2½ years or terminate her employment."

On June 17 the Florida Department of Labor and Employment Security-Bureau of Unemployment Compensation denied Hobbie's application for benefits. On June 22 she appealed this determination. The matter was heard by an Appeals Referee on July 20. The sincerity of Hobbies religious beliefs was never questioned. Neither did the employer offer any evidence suggesting that it had suffered injury, damage or other hardship as a result of Hobbies request for a religious accommodation. Nor did the testimony reflect any attempt by Lawton and Company—other than what Hobbie and her immediate supervisor had worked out among themselves—to effect an accommodation of her beliefs. The Appeals Referee denied Hobbie benefits, concluding that she had been discharged for "misconduct connected with work."

THE QUESTION IS SUBSTANTIAL

The decision contends that under state law Hobbie may not receive unemployment compensation benefits if after beginning employment she adopts new religious beliefs that conflicted with the requirements of her job. While this precise issue was not addressed in either *Sherbert* v. *Verner*, 374 U.S. 398 (1963) or *Thomas* v. *Review Bd. of Indiana Employment Sec.*, 450 U.S. 707 (1981), it is clearly inconsistent with the spirit of these decisions.

Such a construction effectively limits First Amendment protections to those who adhere to religious beliefs but deny individuals the right to adopt new beliefs or convert from one faith to another.

The importance of this case is considerable. Most states and the District of Columbia—like Florida—have statutes which contain the phrase "misconduct connected with his work," or comparable language.[2] Addtionally, several

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[2] Ala. Code § 25-4-78 (1975); Alaska Stat. § 23.20.379 (1962); Ariz. Rev. Stat. Ann. § 23-775 (1956); Ark. Stat. Ann. § 81-1106 (1947); Cal. Unemp. Ins. Code § 1256 (West 1953); Colo. Rev. Stat. § 8-73-108 (1973); Conn. Gen. Stat. Ann. § 31-236 (West 1958); Del. Code Ann. tit. 19 § 3315 (1974); D.C. Code Ann. § 46-310 (1973); Ga. Code Ann. § 54-610 (1933); Hawaii Rev. Stat. § 383-30 (1976); Idaho Code § 72-1366 (1947); Ill. Ann. Stat. ch. 48, § 432 A (Smith-Hurd 1935); Ind. Code Ann. § 22-4-15-1 (Burns 1971); Iowa Code Ann. § 96.5.2 (West 1949); Kan. Stat. Ann. § 44.706 (1964); Ky. Rev. Stat. Ann. § 341.370 (Bobbs-Merrill 1970); La. Rev. Stat. Ann. § 23:1601 (West 1950); Me. Rev. Stat. Ann. tit. 26, § 1193 (1964); Md. Ann. Code art. 95A, § 6 (1957); Mass. Gen. Laws Ann. ch. 151A, § 25 (West 1958); Mich. Comp. Laws Ann. § 421.29 (West 1948); Minn. Stat. Ann. § 268.09 (West 1946); Miss. Code Ann. § 71-5-513 (1972); Mo. Ann. Stat. § 288.050 (Vernon 1949); Mont. Code Ann. § 87-106 (1947); Neb. Rev. Stat. § 48-628 (1943); Nev. Rev. Stat. § 612.385 (1957); N.H. Rev. Stat. Ann. § 282-A:32 (1977); N.J. Stat. Ann. § 43:21-5 (West 1939); N.M. Stat. Ann. § 51-1-7 (1978); N.Y. Lab. Law § 593 (Consol. 1939); N.C. Gen. Stat. § 96-14 (1965); N.D. Cent. Code § 52-06-02 (1959); Ohio Rev. Code Ann. § 4141.29 (Page 1953); Okla. Stat. Ann. tit. 40, § 2-406 (West 1971); Or. Rev. Stat. § 657.176 (1953); Pa. Stat. Ann. tit. 43, § 802 (Purdon 1970); R.I. Gen. Law § 28-44-18 (1956); S.C. Code Ann. § 41-35-120 (Law. Co-op 1976); S.D. Codified Laws Ann. § 61-6-14 (1967); Tenn. Code Ann. § 50-7-303 (1956); Tex. Rev. Civ. Stat. Ann. art. 5221b-3 (Vernon 1958); Utah Code Ann. § 35-4-5 (1953); Vt. Stat. Ann. tit. 21, § 1344 (1958); Va. Code § 60.1-58 (1950); Wash. Rev. Code Ann. § 50.20.060 (1961); W.Va. Code Ann. § 21A-6-3 (West 1966); Wis. Stat. Ann. § 108.04 (West 1957); Wyo. Stat. Ann. § 27-3-311 (West 1977).

state appellate courts have ruled on this issue with conflicting or inconsistent results. See *Key State Bank* v. *Adams*, 360 N.W.2d 909 (Mich. Ct. App. 1984); *Hildebrand* v. *Unemployment Ins. Appeals Bd.*, 140 Cal. Rptr. 151, 566 P.2d 1297 (1977) *cert. denied*, 434 U.S. 1068 (1978); *DePriest* v. *Bible*, 653 S.W.2d 721 (Tenn. App. 1980); *DePriest* v. *Puett*, 669 S.W.2d 669 (Tenn. App. 1984); *Engraff* v. *Industrial Comm'n*, 678 P.2d 564 (Colo. Ct. App. 1983); *Levold* v. *Employment Sec. Dept.*, 604 P.2d 175 (Wash. App. 1979); *Martinez* v. *Industrial Comm'n of Colorado*, 618 P.2d 738 (Colo. Ct. App. 1980).

The Unemployment Appeals Commission, applying state law, concluded that Hobbie had been discharged "for misconduct connected with her work." Consequently, she was not entitled to receive unemployment compensation benefits. The decision ignored statements on the record that Hobbie's religious beliefs could have been accommodated without hardship on the employer.

The state, seeking to distinguish this case from *Sherbert* and *Thomas*, contend that by accepting a new religion, Hobbie was the "agent of change" and not the employer. While the "agent of change" argument was not specifically addressed in either *Sherbert* or *Thomas* those decisions provide principles which require rejection of the state's position.

In *Sherbert*, a member of the Seventh-day Adventist Church was discharged by her South Carolina employer because she would not work on the Sabbath of her faith. She filed a claim for unemployment compensation which was denied because of her refusal to accept any jobs that would involve work on her Sabbath. Under state law she was disqualified for benefits because of her failure, without good cause, to accept "suitable work when offered . . .

by the employment office or the employer . . ." Sherbert challenged this decision claiming the state statute abridged her right to the free exercise of her religion under the Free Exercise Clause of the First Amendment.

The Supreme Court concluded that the South Carolina law did impose a burden on the free exercise of religion. It observed: "If the purpose or effect of a law is to impede the observance of one or all religions or is to discriminate invidiously between religions, that is constitutionally invalid even though the burden may be characterized as being only indirect. *Braunfeld* v. *Brown*, 366 U.S. 599 at 607" 374 U.S. at 404. Sherbert's ineligibility for benefits was solely because of her religious practices. The law had forced her to choose between following the precepts of her religion and forfeiting benefits, on the one hand, and abandoning one of the precepts of her religion in order to accept work on the other hand.

An infringement by the state of constitutional rights or incidental burden, can only be justified by a "compelling state interest in the regulation of a subject within the State's constitutional power to regulate . . ." *NAACP* v. *Button*, 371 U.S. 415 (1963). The Supreme Court was unable to find a compelling state interest:

> We must next consider whether some compelling state interest enforced in the eligibility provisions of the South Carolina statute justifies the substantial infringement of Appellant's First amendment right. It is basic that no showing merely of a rational relationship to some colorable state interest would suffice; in this highly sensitive constitutional area, "[o]nly the gravest abuses, endangering paramount interests, give occasion for permissible limitation," *Thomas* v. *Collins*, 323 U.S. 516, 530 (1945). No such abuse or danger has been advanced in the present case.

Id. 374 U.S. at 406 and 407.

South Carolina could *not* constitutionally apply the eligibility provisions of its unemployment compensation law in such a manner as to force a worker to abandon her religious convictions respecting a day of rest. Relying on *Everson* v. *Board of Education*, 330 U.S. 1, 16 (1947), it observed that no state may "exclude individual Catholics, Lutherans, Mohammedans, Baptists, Jews, Methodists, Non-believers, Presbyterians, or the members of any other faith, *because of their faith, or lack of it*, from receiving the benefits of public welfare legislation."[Emphasis added]

The matter on appeal effectively reverses the Supreme Court's landmark decision in *Sherbert*. It permits the state to accomplish what South Carolina failed to do in *Sherbert*, namely, to deny unemployment compensation benefits to an individual because of her religious practices. Florida law denies benefits to Hobbie because she was discharged for "misconduct connected with work" rather than "failure to accept work." Such an argument is contrary to both the spirit and intent of *Sherbert*.

In *Thomas*, the Supreme Court had another opportunity to review the principles first articulated in *Sherbert*. At issue was the denial of unemployment compensation benefits to a Jehovah's Witness who quit his job because religious beliefs forbade participation in the production of armaments. Thomas argued a violation of his First Amendment right to the free exercise of religion.

Thomas was transferred by his employer to a job which produced turrets for military tanks. He claimed his religous beliefs prevented him from participating in the production of war materials. When he quit the State of

Indiana refused to pay him unemployment compensation benefits. It determined he was ineligible under state law because he had *voluntarily* left employment for personal reasons and without good cause.

Concluding that Thomas had terminated his employment for personal religious reasons, the Court looked first to *Everson* v. *Board of Education*, 330 U.S. 1 (1947) and observed that a person may not be compelled to choose between the exercise of a First Amendment right and participation in an otherwise available public program. Nor may a state exclude persons because of their faith or lack of it "from receiving the benefits of public welfare legislation." 330 U.S. at 16.

Then turning to *Sherbert:*

> The ruling [disqualifying Mrs. Sherbert from benefits because of her refusal to work on Saturday in violation of her faith] forces her to choose between following the precepts of her religion and forfeiting benefits, on the one hand, and abandoning one of the precepts of her religion in order to accept work, on the other hand. Governmental imposition of such a choice puts the same kind of burden upon the free exercise of religion as would a fine imposed against [her] for her Saturday worship." 374 U.S. at 404.

Indiana had argued that the burden upon religion under state law was only indirect. The state required an applicant for unemployment compensation to show only that they left work for "good cause in connection with the work."

However, the Court rejected this argument. It observed: "[a] regulation neutral on its face may, in its application, nonetheless offend the constitutional requirement for government neutrality if it unduly burdens the free exercise of religion." *Wisconsin* v. *Yoder*, 406 U.S. 205

at 220 (1972) cf. *Walz* v. *Tax Comm'n.*, 397 U.S. 664 (1970).

Finding similarities between *Sherbert*, the decision found that Thomas "was put to a choice between fidelity to religious beliefs or cessation of work; the coercive impact on Thomas is indistinguishable from Sherbert . . ." 450 U.S. at 717.

> Where the state conditions receipt of an important benefit upon conduct proscribed by a religious faith, or where it denies such a benefit because of conduct mandated by religious belief, thereby putting substantial pressure on an adherant to modify his behavior and to violate his beliefs, a burden upon religion exists. *While the compulsion may be indirect, the infringement upon free exercise is nonetheless substantial.* [Emphasis added]

Id. 450 U.S. at 717, 718.

The Court also rejected Indiana's attempts to distinguish *Sherbert* in that she had been dismissed by the employer's action rather than quitting as had Thomas. Whether Thomas had voluntarily quit or whether he had been fired for refusing to do the work would not change the end result. "In both cases, the termination flowed from the fact that the employment, once acceptable, became religiously objectionable because of changed conditions." 450 U.S. at 718. The Court found no compelling state interest to justify such an inroad on Thomas' religious liberty.

In the instant proceeding Hobbie was denied unemployment compensation benefits because of "misconduct associated with her work." Florida maintains that her act of adopting new religion at variance with her work conditions constituted misconduct and removed her from the protection afforded by both *Sherbert* and *Thomas*. Such a

position both ignores and demeans the spirit of these decisions.

In *Sherbert*, the Court was asked to deny unemployment compensation benefits to an individual who in violation of state law refused "to accept available suitable work when offered" because in conflict with her religious beliefs. The Court declined to do so. In *Thomas*, the ever ingenious state asked the Court to deny unemployment compensation benefits to an individual who quit his job rather than violate his religious beliefs. The state contended that he had "voluntarily" left his employment for personal reasons and thus did not qualify for benefits. This Court rejected that argument as well. Now in *Hobbie*, Florida contends that since Hobbie was "the agent of change" in that she adopted a new religion, her termination was for "misconduct connected with work." As such, she is not entitled to unemployment compensation benefits. This contention must be rejected as well representing yet one more attempt to reverse *Sherbert*.

The principles of *Sherbert* control this matter. One cannot argue that if Sherbert had been denied benefits under the "misconduct connected with work" provision of state law that she would have lost her case before this Court. Nor would the results of that decision differ if she had "voluntarily" left her employment as was the case in *Thomas*. Neither should Florida be permitted to deny Hobbie unemployment compensation benefits for "misconduct connected with work" when she refused to work on her Sabbaths.

CONCLUSION

The questions presented in this appeal are substantial and of significant public importance. While the precise issue is of first impression, the principles articulated in

Sherbert and *Thomas* require this Court to summarily reverse the decision of the District Court of Appeal. Alternatively, probable jurisdiction should be noted and this matter be set down for appropriate briefing and oral argument on the constitutionality of the Florida statute as interpreted.

Respectfully submitted,

WALTER E. CARSON, ESQ.
MITCHELL A. TYNER, ESQ.
FRANK M. PALMOUR, ESQ.
Attorneys for the Appellant

December 1985

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Jurisdictional Statement were mailed, U.S. postage prepaid, to Richard S. Cortese and Geri Atkinson-Hazelton, General Counsel, Unemployment Appeals Commission, Suite 221, Ashley Building, 1321 Executive Center Drive, East, Tallahassee, Florida 32301, attorneys for Appellee Unemployment Appeals Commission; and to Joseph W. Carvin, Alley and Alley, Chartered, P.O. Box 1427, Tampa, Florida 33601, and John Sanders, P.O. Box 340, Winter Park, Fla. 32790 attorneys for Appellee Lawton and Company, this 9th day of December, 1985.

WALTER E. CARSON, ESQ.

APPENDIX

APPENDIX A

Referee's Decision:
Docket No. 84-14918U

FLORIDA DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY
UNEMPLOYMENT COMPENSATION APPEALS BUREAU

NOTICE OF DECISION OF APPEALS REFEREE

Claimant: APPELLANT
S.S. No.: 100-36-7461

Paula A. Hobbie
c/o 2360 Virginia Drive
Altamonte Springs, FL 32714

Employer:
No.: -439856-A

Lawton and Co.
500 N. Orlando Avenue, Ste. 1264
Winter Park, FL 32789

Jurisdiction: 443.151(4)(a) & (b) F.S.

IMPORTANT

This decision will become final unless within (20) calendar days after the date it is mailed, you file an application for review to the Unemployment Appeals Commission, Room 221, Ashley Bldg., 1321 Executive Center Dr., East, Tallahassee, Florida 32301.

Other copies mailed to:

☒ UCCO	-3632-0
☐ MU*	☒ Emp.'s Rep.
☐ ASLO**	☒ Emp.'s Atty.
***	☒ Clt.'s Atty.

APPEARANCES

CLAIMANT: YES

EMPLOYER: YES

FINDINGS OF FACT

The claimant was employed from October 4, 1981 through June 1, 1984, by the employer, first as a trainee and then as an

assistant manager. In April, 1984, the claimant informed her manager that she was being baptised in the Seventh-Day Adventist Church and that she would no longer be able to work from sundown on Friday to sundown on Saturday, because that was considered their Sabbath. The store manager and the claimant worked out a compromise which allowed him to cover for the claimant on Friday nights and Saturday, in return for which she would work evenings and Sundays for the manager. The general manager's supervisor became aware of the situation and informed the general manager that no exceptions could be made to the standard scheduling policy for the company. The company does not allow any management personnel to take Friday nights or Saturdays off as a permanent day off, as these are traditionally their heaviest retail sales days. The claimant worked three of the six weeks between her compromise with the manager and May 28, 1984. On May 28, 1984, the claimant was informed that she could no longer work evenings and Sunday in return for being off on Friday evenings and Saturday. The manager advised the claimant to speak to the general manager, who, after conferring with the claimant and her minister, advised her that the company could not make any allowances to give the claimant special scheduling privileges. The claimant was told following a meeting on June 1, 1984, that she would either work the days she was scheduled to work or they would accept her resignation. The claimant refused to resign and on the evening of June 1, 1984, she was asked for her keys. The claimant had previously worked on Saturdays for over two years.

CONCLUSIONS OF LAW: The law provides that "misconduct connected with work" means an intentional act or course of conduct by the worker in violation of his duties and obligations to the employer.

The record and evidence in this case show that the claimant was discharged for refusing to work scheduled hours on Saturdays due to religious beliefs. The testimony presented at the hearing by the employer shows that the claimant had worked on Saturdays and Friday evenings for an extended period of time and that she had accepted that as a condition of hire. The testimony of the employer shows that the claimant was given

the opportunity to continue her employment by working her regularly scheduled hours. The testimony of the claimant has not established that the employer's requirements of her were unreasonable in the context of her position and prior employment. It has been held that the law cannot be readily construed to require an employer to discriminate against other employees in order to enable others to observe their Sabbath. In view of the testimony presented by the employer and the claimant, it must be held that the claimant was discharged from the job for misconduct connected with the work when she refused to work the hours scheduled for her. The employer's testimony has established that, although there was a temporary solution to the problem of covering for the claimant on Fridays and Saturdays, this solution could not be guaranteed as being of a permanent nature and that it would not interfere with the rights of the other employees in the store.

DECISION: The determination of the claims examiner dated June 19, 1984, is affirmed.

This is to certify that on this date, July 20, 1984, a copy of the above decision was mailed to the last-known address of each interested party.

By: /s/ Mary Dougherty
MARY DOUGHERTY
Deputy Clerk

/s/ J. D. Finkbohner
J. D. FINKBOHNER
Appeals Referee
Winter Park, Florida
July 20, 1984

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APPENDIX B

STATE OF FLORIDA
UNEMPLOYMENT APPEALS COMMISSION

U.A.C. Order No. 84-3061

IN THE MATTER OF:

PAULA A. HOBBIE
SS No. 100-36-7461
Claimant/Appellant

vs.

LAWTON AND COMPANY
Employer No. -439586A
Employer/Appellee

UCCO Orlando 3632-0-12117

ORDER OF UNEMPLOYMENT APPEALS COMMISSION

Upon review pursuant to Section 443.151(4)(c), Florida Statutes, it is found that the decision of the appeals referee is in accord with the essential requirements of law and is, therefore, affirmed.

It is so ordered.

UNEMPLOYMENT APPEALS COMMISSION

R. Carson Dyal, Chairman
Delois Baskin, Member
Charlie Harris, Member

This is to certify that on Sep. 11, 1984, the above Order was filed in the office of the Clerk of the Unemployment Appeals Commission, and a copy mailed to the last known address of each interested party.

By/s/DONNA JOHNSON
Deputy Clerk

APPENDIX C

IN THE DISTRICT COURT OF APPEAL
OF THE STATE OF FLORIDA
FIFTH DISTRICT JULY TERM 1985

Case No. 84-1491

PAULA A. HOBBIE,

Appellant,

v.

UNEMPLOYMENT APPEALS COMMISSION
AND LAWTON & COMPANY,

Appellees.

Decision filed September 10, 1985

Administrative Appeal from the Unemployment Appeals Commission.

Frank M. Palmour and Sharon Lee Stedman, of Rumberger, Kirk, Caldwell Cabaniss & Burke, Orlando, for Appellant.

Richard S. Cortese, Tallahassee, for Appelle Unemployment Appeals Commission.

John-Edward Alley and Joseph W. Carvin, of Alley and Alley, Chartered, Tampa, for Appellee Lawton and Company.

PER CURIAM.

AFFIRMED

COBB, C.J., UPCHURCH, F.J., and GOSHORN, G.S., Associate Judge, concur.

APPENDIX D

IN THE FIFTH DISTRICT COURT OF APPEAL
STATE FLORIDA

Case No. 84-14918U

PAULA HOBBIE

Appellant,

vs.

UNEMPLOYMENT APPEALS COMMISSION AND
LAWTON AND COMPANY,

Appellee.

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that PAULA A. HOBBIE, the Appellant above-named, hereby appeals to the Supreme Court of the United States from the final order of the Fifth District Court of Appeals, State of Florida, affirming the ruling of the Unemployment Appeals Commission, entered on September 10, 1985.

This appeal is taken pursuant to 28 U.S.C. § 1257(2).

/s/Frank M. Palmour
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Joseph W. Carvin, Esquire, Alley and Alley, Chartered, Post Office Box 1427, Tampa, Florida, 33601, Counsel for Lawton and Company and Richard S. Cortez, Esquire, Ashley Building, Suite 221, 1321 Executive Center Drive East, Tallahassee, Florida, Counsel for Unemployment Appeals Commission.

/s/ Frank M. Palmour
FRANK M. PALMOUR